

ORDINANCE NO. 2011-9

RUSH COUNTY

TATTOO, PIERCING, and BODY MODIFICATION ORDINANCE

I. Definitions

- A. In addition to the Definitions in 410 IAC 1-5, the following definitions apply throughout this Ordinance.
1. "Artist" refers to a person employed by an Establishment to perform body piercing, body modification or to affix a permanent tattoo to an individual. This includes those defined as "body piercer" or "tattoo artist" by 410 IAC 1-5, and any person who performs boring, penetration or tunneling through the body of a Client.
 2. "Body Modification" means any tattoo, body piercing, or other penetrating body art, or the use of needles, scalpels or other medical devices to insert devices or modify the body for the purpose of adornment. This does not include henna tattoos or other surface adornment.
 3. "Branding" means a potentially invasive procedure in which a permanent mark is burned into or onto the skin using either temperature, mechanical or chemical means.
 4. "Client" is a person or patron who receives tattooing, body piercing or body modification services.
 5. "Establishment" is a location where body piercing, body modification and/or tattooing are performed. This includes a Facility as defined by 410 IAC 1-5 but does not include temporary and mobile establishments which are prohibited by this ordinance and defined as follows:
 - a. "Mobile Establishment" means a tattoo, body piercing, or body modification establishment that is wheeled; mounted on a vehicle; or otherwise readily movable; that changes location too frequently to be a candidate for permanent utility connections, as determined by the Health Officer.
 - b. "Temporary Establishment" means an Establishment located within a permanent structure that operates for a period of no more than fourteen consecutive days for the purposes of product demonstration, industry trade show, or education.
 6. "Health Department" means the Rush County Health Department having jurisdiction in Rush County, Indiana.
 7. "Health Officer" means the duly appointed Health Officer having jurisdiction in Rush County, Indiana.
 8. "Implanting" is a surgical procedure involving the placement of an object or multiple objects under the skin to mold or shape the skin outwardly for a particular appearance.
 9. "Operator" means any person who controls, operates, conducts, manages, or owns any Establishment or who organizes any temporary event.
 10. "Scarification" means altering skin texture by cutting the skin and controlling the body's healing process in order to produce wounds, which result in permanently raised wheals or bumps known as keloids.
 12. "Suspension" means hanging the body from (or partially from) hooks that are placed by body piercing.
 13. "Tongue splitting" means tongue bifurcation or a type of body modification in which the tongue is cut centrally from its tip part of the way towards its base, forking the end.

II. General Requirements

B. No person shall do any of the following:

1. Operate a business that offers tattooing, body-piercing, or other body modification services, unless the Rush County Health Department has issued a permit to the business under this Ordinance, and the business is in compliance with 410 IAC 1-5.
2. Perform a tattooing, body-piercing, or other body modification procedure in a manner that does not meet the requirements of this Ordinance, 410 IAC 1-5, and IC 35-42-2-7.

III. Physical Facilities

A. In addition to the requirements of 410 IAC 1-5, all tattoo, body piercing, or other body modification establishments must comply with the following:

1. The premises in which tattooing and/or body piercing shall be conducted in an enclosed building. Each artist station shall be reasonably separated from each other and from waiting Clients or observers.
2. Tattoo, body piercing, and other body modification establishments shall be equipped with artificial light sources equivalent to at least twenty foot-candles at a distance of thirty inches above the floor throughout the establishment. A minimum of forty foot-candles of light shall be provided at the level where the tattooing is being performed. Spotlighting may be used to achieve this required degree of illumination.
3. All walls and floors near equipment used for tattooing, body-piercing or other body modification activities shall be smooth, nonabsorbent and easily cleanable surface and be maintained in a sanitary manner at all times.
4. All tables and other equipment shall be constructed with a smooth, nonabsorbent and easily cleanable finish. If used, disposable table paper shall be changed between Clients.
5. Exterior doors shall be self-closing and tight fitting. Operable windows shall have tight-fitting screens.
6. Restroom facilities shall be available to employees at all times the establishment is open for operation. The restroom shall be equipped with a toilet, toilet paper, hand sink supplied with warm running water, liquid soap, paper towels in dispensers or hand dryers, and a waste receptacle.
7. A hand sink supplied with running water at a temperature of 100-120 degrees Fahrenheit, liquid soap, paper towels in dispensers, and a waste receptacle shall be located in close proximity of each Artist's station and shall be readily accessible and available without passing through any door or barrier.
8. Equipment and supplies used in the course of tattoo and body-piercing services or disinfection and sterilization procedures shall not be stored or utilized within the restroom.

IV. Operator and Artist Responsibilities

A. In addition to the requirements of 410 IAC 1-5 and 29 CFR 1910.1030, the Establishment Operator shall ensure the following:

1. The use of properly calibrated autoclave sterilization units on all reusable items and monthly spore testing of the autoclave are mandatory. A copy of the results of all spore tests must be submitted to the Health Department upon receipt of each test report.
2. A copy of all applicable regulations must be retained on premises.
3. The following records must be maintained by all Operators for at least two (2) years:
 - a) a government issued ID with a photo and date of birth on each Client
 - b) If the Client is under age 18, parental consent forms.
 - c) With respect to tattooing services, written records must also include the professional tattooing ink used for each tattoo performed.
4. Verbal and written instructions for the aftercare of the tattoo or other body modification shall be provided to each Client or legal guardian if Client is under eighteen (18). The written public education materials shall:
 - a) advise the Client to consult a physician or dentist as appropriate at the first sign of infection,

- b) shall contain the name, address and phone number of the establishment, and
 - c) shall be signed and dated by the Artist and the Client, with a copy given to the Client.
- 5. The following information shall be kept on file on the premises of a body modification establishment and available for inspection by the Health Department:
 - a) Full names, date of birth, gender, and identification photos of all Operators/Artists; and
 - b) Each Artist and Operator should be able to provide documentation of the following information upon request of the Health Department: that each Artist and Operator has either completed or been offered and declined, in writing, the Hepatitis B vaccination series; that antibody testing has revealed that the employee is immune to Hepatitis B; or that the vaccine is contraindicated for medical reasons.
- 6. Before and after performing tattoos, body piercings, or other body modification procedures the Artist must thoroughly wash hands in warm running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants. Single-use, disposable paper products are to be used.

V. Prohibited Acts

- A. The following activities are strictly prohibited:
 - 1. Tongue splitting,
 - 2. Tattoo removal, and
- B. The following activities are strictly prohibited to minors (under age 18):
 - 1. branding,
 - 2. implanting,
 - 3. suspension,
 - 4. scarification and
 - 5. piercing of the genitalia or nipples.
- C. Temporary and Mobile Establishments.
 - 1. No Mobile Units.
 - 2. No Temporary Units.

VI. Exceptions

- A. Ear lobe piercing and medical procedures performed by a State Licensed Medical Practitioner are exempt from this Ordinance.

VII. Permits

- A. General:
 - 1. No person, firm, partnership, joint venture, association, business trust, corporation or any organized group of persons may operate an Establishment unless it has first received a valid permit from the Rush County Health Department.
 - 2. The valid permit shall not be transferable from one Establishment or Operator to another.
 - 3. Only Establishments who comply with the provisions of 410 IAC 1-5, as well as all applicable provisions of this Ordinance shall be entitled to obtain and keep a permit.
 - 4. A separate permit shall be required for each Establishment.
 - 5. An Establishment Permit shall not be transferable from one Establishment or Operator to another.
- B. Permit Period:
 - 1. A Permit for an Establishment shall be issued for a term beginning January 1, or the date of commencement of operation, and expiring December 31, of the same year, and shall be applied for by the Operator annually.

VIII. Revocation of Permit

- A. The Health Officer may revoke the permit of any Establishment for any violation of this Ordinance, IC 35-42-2-7, 29 CFR 1910.1030, 410 IAC 1-5, other applicable local, state or federal regulation.
- B. The revocation shall be effective immediately upon issuance by the Health Officer.

- C. The Health Officer may reinstate the Establishment permit upon satisfactory compliance with this Ordinance, IC 35-42-2-7, 29 CFR 1910.1030, 410 IAC 1-5, other applicable local, state or federal regulation.
- D. Appeals of orders of revocation shall be conducted pursuant to IC 4-21.5-3-1 et seq.

IX. Application for Plan Review/ Application for Permit

- A. The Operator of a proposed Establishment, shall submit the following to the Health Department at least 30 days prior to scheduling the pre-operational inspection by the Health Department, and 30 days prior to the proposed first day of operation:
 - 1. Properly prepared plans and specifications for review and approval before the construction or conversion of an existing structure for the use as an Establishment;
 - 2. Proof of contract with infectious waste removal company;
 - 3. Copy of bloodborne pathogen training for all employees;
 - 4. Copy of written policy to meet IOSHA Bloodborne Pathogen Standard (29 CFR 1910.1030).
- B. The plans and specifications for an Establishment shall be deemed satisfactory and approved by the Health Department before a permit can be issued.
- C. A pre-operational inspection shall be conducted to ensure that the establishment is built, remodeled, or set up in accordance with the approved plans and specifications and to assure the Establishment is in compliance with this Ordinance, and 410 IAC 1-5.

X. Additional Requirements for all Body Piercing/Body Modification

- A. All supplies that come into contact with the piercing station should be in "single portion" form, including, but not limited to, anti-bacterial ointments, iodine swabs, alcohol wipes, and corks. These packages must be wiped down with a hospital level, hard surface disinfectant and air dried, prior to being stored in very clean, closed containers.
- B. All oral piercing shall be preceded by the Client performing a one-minute, vigorous application of an antiseptic mouthwash.
- C. All insertable jewelry is to be sterilized and kept in an individual sterile, closed container.
- D. All jewelry placed in new piercings must be made of one of the following, and mill certificates from the manufacturer or an independent assay must be available to prove material composition:
 - 1. Solid 14k or higher white or yellow nickel-free gold;
 - 2. Surgical implant stainless steel, CrNiMo 316LVM, ASTM F-138;
 - 3. Niobium;
 - 4. Surgical implant grades of titanium;
 - 5. Solid platinum;
 - 6. Inert plastics;
- E. Jewelry must have a mirror finish and be free of nicks, scratches, burrs and polishing compounds.

XI. Fees

- A. Permit Fees:
 - 1. The fee for an Establishment, shall be paid for a term beginning January 1, and/or before commencement of operation and expiring December 31, of the same year and shall be applied for by the Operator annually.
 - 2. Permit fees for the issuance of a permit under this Ordinance to an Establishment shall be specified in the Rush County Health Department Fee Ordinance.
 - 3. The fees paid under this Ordinance are not transferable or refundable. A permit may not be issued to any Establishment where outstanding or unpaid fees, or late fees, are due.
- B. Late Fees:
 - 1. A late renewal fee shall be assessed as set by the Health Department for failure to renew a permit within 14 days after the expiration of the permit to operate an Establishment.

XII. Inspections

- A. The Health Department may conduct inspections of Establishments located in Rush County, Indiana.
- B. The results of the inspections shall be provided to the Operator.
- C. Violations noted by the Health Department shall be corrected immediately.

XIII. Penalties for Violation of Sanitary Requirements

- A. Civil penalties, which may include injunctive relief, may be imposed under Indiana law on any Person who violates any provision of this Ordinance.
- B. In the event a lawsuit is necessary to collect the cost of fees, penalties, or services for this Ordinance, the individual or business entity found to be liable shall also pay for reasonable attorney fees and cost of litigation to the county.

XIV. Unconstitutionality Clause

- A. Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected thereby.

XV. Repeal and Effective Date

All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed, and this Ordinance shall be in full force and effect upon its adoption and publication as provided by law.

Passed and adopted by the Board of Commissioners of Rush County, State of Indiana, on this 21st day of November, 2011.

BOARD OF COMMISSIONERS:

ATTEST:

/s/Tom Barnes
Thomas Barnes, President

/s/Deborah C. Adams
Deborah Adams
Rush County Auditor

/s/Ken Masters
Ken Master, Member

/s/Marvin Cole
Marvin Cole, Member